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VIA ECF

Honorable Jesse M. Furman
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Nathaniel Chastain*, No. 22-cr-305 (JMF)

Dear Judge Furman:

Pursuant to the Court's directive at the April 20, 2023 final pre-trial conference, we provide the defense's proposed curative instructions. We believe the Court was correct in suggesting instructions on the proposed issues below. The parties have been unable to agree on the substance or timing of the proposed instructions. The defense believes that the below curative instructions should be read to the jury when the applicable issues first arise at trial.

We will be prepared to argue the reasons for the curative instructions and discuss while the government's rationale in their letter on this subject (filed late this evening) should be rejected.

1. INSIDER TRADING

You just heard the Government use the term "insider trading." You may have heard that term before. While the Government believes that insider trading describes Mr. Chastain's alleged conduct, insider trading is not one of the two charged offenses in this case. The defense disputes that Mr. Chastain's conduct can be described as "insider trading." Whatever understanding you may have about what "insider trading" may be, you should not concern yourselves with it. I will instruct you about the crimes with which Mr. Chastain is charged, wire fraud and money laundering – and the elements that the Government must prove beyond a reasonable doubt for you to find him guilty of those crimes – at the end of the case and it is those instructions that you must follow.

2. ALLEGED VICTIM IS OPENSEA, NOT THE PUBLIC

You may hear from Government witnesses that are not from OpenSea and who will testify regarding their NFT purchases or sales and the marketplace. Also, you have heard the

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Government say that Mr. Chastain's alleged conduct was inconsistent with a "level playing field" in the market. The only victim of the alleged conduct charged in this case is OpenSea. Any market participant or NFT buyer or seller is not an alleged victim of the charged crime. This case is not about a fraud on the public and you are not to consider any non-OpenSea witnesses as potential victims in this case. I will instruct you about the crimes with which Mr. Chastain is charged – and the elements that the Government must prove beyond a reasonable doubt for you to find him guilty of those crimes – at the end of the case and it is those instructions that you must follow.

Thank you for the Court's consideration.

Respectfully submitted,

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